

State of California
AIR RESOURCES BOARD

**ASSEMBLY BILL 617 COMMUNITY AIR PROTECTION PROGRAM –
COMMUNITY EMISSIONS REDUCTION PROGRAM FOR THE SAN BERNARDINO,
MUSCOY COMMUNITY**

Resolution 20-10

September 10, 2020

Agenda Item No.: 20-10-3

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (CARB or Board) to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, California's air quality programs have led to significant public health improvements; however, certain communities continue to experience environmental and health inequities from air pollution;

WHEREAS, many of these communities are affected by multiple stationary, area, and mobile sources of air pollution and suffer disproportionate health impacts;

WHEREAS, the high cumulative exposure burdens in these communities are a public health concern, contributing to health conditions such as cardiorespiratory disease, increased cancer risk, and an increased risk of premature death;

WHEREAS, expedited emission reductions of toxic air contaminants and criteria air pollutants in communities with high cumulative exposure burdens are critical to reduce these disproportionate health impacts;

WHEREAS, Assembly Bill (AB) 617 (C. Garcia, Statutes of 2017, chapter 136) added sections 39607.1, 40920.8, 42411, 42705.5, and 44391.2 and amended sections 40920.6, 42400, and 42402 in the Health and Safety Code, requiring a new community-focused program to address criteria air pollutants and toxic air contaminants;

WHEREAS, AB 617 is a significant step in transforming California's air quality programs to address air pollution disparities at the neighborhood level;

WHEREAS, the Legislature has provided funding to improve air quality in California's most burdened communities through the allocation of nearly \$750 million to CARB,

with subsequent distribution to local air districts, as “Community Air Protection” funds to reduce exposure in highly impacted communities;

WHEREAS, statute required CARB by October 1, 2018, to engage stakeholders through a robust public process to set overall Program requirements to reduce toxic air contaminant and criteria air pollutant emissions in communities with high cumulative exposure, and select initial communities with high cumulative exposure burdens for the deployment of community air monitoring systems and/or the development of community emissions reduction programs;

WHEREAS, on September 27, 2018, CARB approved the *Community Air Protection Blueprint: For Selecting Communities, Preparing Community Emissions Reduction Programs, Identifying Statewide Strategies, and Conducting Community Air Monitoring* (Blueprint), which described criteria for the development of community emissions reduction programs by air districts, in conformance with the requirements of AB 617, and determined that the Blueprint and online Resource Center met statutory requirements for CARB to develop a monitoring plan and state strategy;

WHEREAS, statute requires that community emissions reduction programs be consistent with the state strategy;

WHEREAS on September 27, 2018, CARB selected the community of San Bernardino, Muscoy to develop a community emissions reduction program as one of ten initial communities;

WHEREAS, the South Coast Air Quality Management District (District or South Coast AQMD) convened a steering committee comprised of San Bernardino and Muscoy community residents, non-profit organizations, business, and local government representatives and developed a community emissions reduction program to improve air quality in San Bernardino, Muscoy, titled “Community Emissions Reductions Plan for San Bernardino, Muscoy” (Plan);

WHEREAS, the District conducted a public process to develop the Plan over the course of a year including a series of 10 public meetings, including community steering committee meetings and workshops;

WHEREAS, the District Governing Board approved the Plan on September 6, 2019, and submitted it to CARB on December 4, 2019;

WHEREAS, CARB staff hosted a community meeting, coinciding with a community steering committee meeting on January 23, 2020, to hear directly from the community steering committee and the public on the Plan;

WHEREAS, local decisions that determine land use and traffic patterns impact exposure to air pollution, and in many impacted communities throughout the State,

including the San Bernardino, Muscoy community, the proximity of emissions sources to nearby sensitive receptors like schools, homes, and day care centers exacerbates the cumulative exposure burden;

WHEREAS, historic land use decisions have created disproportionate impacts in many communities throughout the State;

WHEREAS, the State has emphasized the importance of incorporating environmental justice into city and county planning to address existing and new environmental injustice through the passage of Senate Bill 1000 (Levy, Chapter 587, Statutes of 2016), requiring general plans to include environmental justice elements and policies, and the through the Governor's Office of Planning and Research's General Plan Guidelines to implement those requirements;

WHEREAS, CARB staff reviewed the Plan to determine whether it meets the criteria established in the Blueprint and considered the perspectives of the community steering committee members in developing recommendations to the Board;

WHEREAS, CARB staff have identified key strengths of the Plan to highlight for future communities as well as specific aspects of the Plan that will need further definition to support successful implementation in the areas of reduction strategies, mobile and indirect sources, ensuring effective enforcement and community-level technical foundation;

WHEREAS, aspects of the Plan may change over implementation, including implementation timeframes, technical information, and strategy prioritization;

WHEREAS, staff has proposed that CARB approve the San Bernardino, Muscoy community emissions reduction program and direct the District to take additional actions to strengthen implementation as set forth in Attachment A: the San Bernardino, Muscoy Community Emissions Reduction Program Staff Report (Staff Report), released to the public on March 26, 2020, with the public comment docket opened from August 12, 2020, to September 4, 2020;

WHEREAS, CARB originally intended to consider the Community Emissions Reduction Program for the San Bernardino, Muscoy community at a hearing in April 2020, but subsequently postponed such consideration as a result of the public health crisis limiting in-person meetings, until such time that the Board had an opportunity to hold the meeting in-person within or near the community;

WHEREAS, the District has continued to convene quarterly meetings with the community steering committee in 2020 and work on the strategies specified in the community emission reduction program, including consideration of the actions recommended in the Staff Report;

WHEREAS, as it is now evident that due to the public health crisis, in-person Board hearings will not occur in the near-term, the decision was made to move forward and conduct this public meeting to consider the Plan remotely via web-based videoconferencing;

WHEREAS, the District should continue to work with the community steering committee and CARB to expeditiously implement the Program, including measurable progress on the additional actions set forth in Attachment A and include such progress in the reporting that is due annually;

WHEREAS, the District submitted the Plan to CARB on December 4, 2019 (Proposed Project), which included CARB implementation measures identified in Attachment B to the resolution (CARB Measures). As part of its approval process, the District is the lead agency under the California Environmental Quality Act (CEQA) and Title 14, California Code of Regulations, Sections 15000 et seq. (CEQA Guidelines) and prepared and filed a Notice of Exemption (NOE) for the Plan.

WHEREAS, under CEQA Guidelines sections 15381, CARB is a responsible agency in approving the Proposed Project because it has discretionary authority to approve or deny the project based on its consistency with AB 617. CARB, as the responsible agency under CEQA for approval of the Proposed Project, has prepared findings under its certified regulatory program (California Code of Regulations, title 17, sections 60000 through 60007) to comply with the requirements of CEQA (Public Resources Code section 21080.5). CEQA Guidelines, section 15096 dictates the responsible agency's role when reviewing a project that has been approved by a lead agency. Specifically, CARB, in approving a project, has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it decides to carry out, finance or approve. As such, since CARB is considering carrying out the Proposed Project's CARB Measures, CARB must independently review the CARB Measures for consistency with CEQA.

WHEREAS, CARB staff has considered the Final Programmatic Environmental Analysis for the State Strategy for the State Implementation Plan (SIP Strategy EA), State Clearinghouse Number 2015102011, and the Final Environmental Analysis for the Community Air Protection Blueprint (Blueprint EA), State Clearinghouse Number 2018022025, which it certified in March 2017 and September 2018, respectively, to determine whether the CARB Measures, are within the scope of the SIP Strategy and Blueprint EAs and require no further environmental review pursuant to CEQA Guidelines section 15168. CARB staff is proposing that the Board find that the CARB Measures are within the scope of the Community Air Protection Blueprint and State Strategy for the State Implementation Plan planning documents and the associated programmatic EAs adequately describe the CARB measures for the purposes of CEQA. (14 CCR §15168(e)(1)-(2).) The full findings to support this "within the scope" analysis is in Attachment B to the Board's resolution;

WHEREAS, in consideration of the applicable statutory and Blueprint requirements, written and oral testimony provided by community members, the District, and other stakeholders, the Board finds that:

- the Plan is a community emissions reduction program pursuant to AB 617;
- the Plan was developed with the community steering committee in an open public process, in consultation with affected parties, through numerous public workshops, individual meetings, and other outreach efforts, and these efforts are expected to continue; and
- the Plan addresses key elements required in statute and the Blueprint and will benefit from additional actions to support successful implementation in the areas of reduction strategies, mobile and indirect sources, ensuring effective enforcement and community-level technical foundation;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the Plan with additional direction to CARB staff, the District, and community steering committee as set out in this Resolution:

- CARB staff works with the District, and the community steering committee to take the additional actions to strengthen implementation as defined in the Staff Report in Attachment A on pages 7 through 9, which specifies to:
 1. Prioritize project types for incentive funding based on steering committee recommendations, including use of zero emission technologies, where feasible, and identify funding sources for incentive-based and other strategies, including AB 617 incentive funds.
 2. Define implementation steps and milestones for Plan actions that require further detail such as incentive funding, outreach, and exposure reduction measures for specified sensitive receptors in order to provide additional clarity on how these actions will be implemented.
 3. Refine metrics for tracking progress to establish what constitutes a successful action.
 4. Update the emissions reduction targets as new information becomes available for the regulatory and other strategies that currently do not have defined benefits.
 5. Provide ongoing reports back to the steering committee on collaboration with other agencies for designating truck routes and parking away from sensitive receptors.
 6. Continue work on reducing impacts from warehouse facilities and railyards, with consideration of any additional mechanisms that may be needed to ensure anticipated exposure reductions are achieved.
 7. Work with the steering committee to advance implementation of the strategies outlined in the Freight Handbook Concept Paper in the community.
 8. Review the results of South Coast AQMD and CARB's enhanced enforcement activities with the community steering committee, discuss the

- steps taken to address any issues identified, and identify appropriate refinements to the focused enforcement activities within the community.
9. Continue community air monitoring and the ongoing process to improve emissions inventory and air quality modeling by incorporating the newest resources and tools as they become available as part of Plan implementation and to characterize current air quality in the community.

BE IT FURTHER RESOLVED that the Board directs the District to submit annual reports to CARB by October 1 of each year beginning in 2021, developed in accordance with the Blueprint requirements, and including updates on the implementation of the Plan and measureable progress made regarding the additional actions required in this Resolution. The annual reports should be developed in collaboration with the community steering committee with steering committee input documented in the report.

BE IT FURTHER RESOLVED that the Board affirms the existing authority of CARB staff to review and interpret aspects of the community emissions reduction programs and delegates to the Executive Officer, or his or her designee, the authority to approve District changes to the Plan, in a manner compliant with CEQA, that he or she deems necessary to enable effective implementation of the Plan, provided that such changes are consistent with statute and the goals established by the Board. Staff shall identify those changes when the Board receives an update on the annual report on the Plan.

BE IT FURTHER RESOLVED that based on the CEQA findings in Attachment B, attached to this Resolution, CARB finds that pursuant to Section 15162 of the CEQA Guidelines, no subsequent EA is required for the CARB Measures because they are considered proposed "later activities" that are within the scope of the SIP Strategy and Blueprint EAs. Thus, pursuant to CEQA Guidelines section 15168, no new environmental document is required for the CARB Measures before CARB approves the Proposed Project.

BE IT FURTHER RESOLVED that the Board incorporates by reference the SIP Strategy EA Findings and the Blueprint EA Findings in their entirety as the Board's findings to support the environmental review of the CARB Measures including: (1) the potential environmental impacts of the CARB Measures; (2) the measures adopted to mitigate significant environmental impacts of the CARB Measures; (3) the feasibility of mitigation measures and alternatives; (4) the potentially significant impacts of the CARB Measures that will be mitigated to a less than significant level by the adopted mitigation measures; (5) the identification of the significant environmental impacts associated with the CARB Measures that will not be avoided or reduced to a less than significant level by the adopted mitigation measures; and (6) the findings related to the statements of overriding considerations.

BE IT FURTHER RESOLVED that the Board finds all significant effects on the environment due to the implementation of the Proposed Project's CARB Measures have been eliminated or substantially lessened where feasible through mitigation

measures adopted in connection with CARB's approval of the SIP Strategy EA and Blueprint EA and incorporated as part of the Proposed Project.

BE IT FURTHER RESOLVED that the Board finds all remaining significant effects on the environment caused by implementation of the Proposed Project's CARB Measures, found to be unavoidable, remain acceptable due to the reasons set forth in the Statements of Overriding Considerations in the SIP Strategy EA and Blueprint EA Findings adopted by CARB in connection with its approval of the 2016 SIP Strategy and AB 617 Blueprint documents, as incorporated by reference and reaffirmed herein.

BE IT FURTHER RESOLVED that the Board adopts the findings in Attachment B to this resolution and finds that there are new feasible alternatives or feasible mitigation measures within its power that would mitigate for the impacts from the CARB Measures, which are already identified in the SIP Strategy and Blueprint EAs and incorporated in their entirety, herein. (CEQA Guidelines section 15096(g)).

I hereby certify that the above is a true and correct copy of Resolution 20-10 as adopted by the California Air Resources Board.

/s/

Ryan Sakazaki, Board Clerk

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September 10, 2020

Identification of Attachments to the Board Resolution

Attachment A: *San Bernardino, Muscoy Community Emissions Reduction Program Staff Report*

Attachment B: *CEQA Findings in Connection with the Approval of the San Bernardino, Muscoy Community Emissions Reduction Program*